

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.

MAGISTRATE JUDGE

03 CV 10289 DPW

THE MASHPEE WAMPANOAG TRIBAL
COUNCIL, INC.,
Plaintiff

v.

BUREAU OF INDIAN AFFAIRS OF THE
DEPARTMENT OF THE INTERIOR OF
THE UNITED STATES OF AMERICA,
Defendant

RECEIPT # 45113
AMOUNT \$150
SUMMONS ISSUED 4/5
LOCAL RULE 4.1
WAIVER FORM
MCF ISSUED
BY DPTY. CLK. POM
DATE 7-12-03

COMPLAINT

1. The Plaintiff is The Mashpee Wampanoag Tribal Council, Inc., a corporation organized and existing under the laws of the Commonwealth of Massachusetts with a principal place of business located at 483 Great Neck Road South, PO Box 1048, Mashpee, Barnstable County, Massachusetts 02649.
2. The Defendant is the Bureau of Indian Affairs of the Department of the Interior, a political subdivision of the United States of America, with a principal place of business located at 1849 C Street, N.W., Washington, DC 20240.
3. Jurisdiction of this Court is contained in 5 United States Code §552(4)(B).
4. On or about August 8, 2002, Plaintiff, through its counsel, sent a request to Defendant pursuant to the Freedom of Information Act, 5 U.S.C. §552 as amended. Said request was properly made and was in compliance with the regulations and procedures contained in 5 U.S.C. §552 as amended. See, Exhibit "A" attached hereto.
5. Upon receiving no response, Plaintiff, through its counsel, on or about September 5, 2002, sent another request to Defendant pursuant to the Freedom of Information Act, 5 U.S.C. §552 as amended. Said request was properly made and was in compliance with the regulations and procedures contained in 5 U.S.C. §552 as amended. See, Exhibit "B" attached hereto.

1

6. Defendant responded to said request by leaving a voicemail message with Plaintiff's counsel on or about October 14, 2002. Said message requested that the Plaintiff corporation provide Defendant with an authorized vote allowing Defendant to release said records to Plaintiff's counsel. This request was complied with by Plaintiff's sending the authorization letter to Lee Fleming, Chief, Branch of Acknowledgement and Research, at the Bureau of Indian Affairs.
7. Upon receiving no further response, Plaintiff, through its counsel, on or about December 9, 2002, sent another request to Defendant pursuant to the Freedom of Information Act, 5 U.S.C. §552 as amended. Said request was properly made and was in compliance with the regulations and procedures contained in 5 U.S.C. §552 as amended. See, Exhibit "C" attached hereto.
8. Upon receiving no further response, Plaintiff, through its counsel, on or about January 27, 2003, sent another request to Defendant pursuant to the Freedom of Information Act, 5 U.S.C. §552 as amended. Said request was properly made and was in compliance with the regulations and procedures contained in 5 U.S.C. §552 as amended. See, Exhibit "D" attached hereto.
9. Other than the verbal request by Defendant to provide corporate authorization to release said records, Defendant has failed to respond in any manner to Plaintiff's Freedom of Information Requests.

VIOLATION OF 5 U.S.C. §552(6)(A)

10. Plaintiff repeats and avers the allegations contained in Paragraphs 1 through 9 of the Complaint.
11. 5 U.S.C. §552(6)(A) states:

"Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall -

 - (i) determine within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and (emphasis added)
12. As stated above, Plaintiff first request for information was dated August 8, 2002. Plaintiff sent a total of four (4) requests between that date and January 27, 2003.

13. Defendant has violated the provisions of 5 U.S.C. §552(6)(A) by failing to determine within the applicable twenty (20) day time period whether to comply with such request; by failing to immediately notify Plaintiff of such determination and the reasons therefor; and by failing to notify Plaintiff of the right to appeal any adverse determinations.

WHEREFORE, Plaintiff The Mashpee Wampanoag Tribal Council, Inc. demands judgment against Defendant Bureau of Indian Affairs of the Department of the Interior of the United States of America and requests this Honorable Court:

1. Enjoin the agency from withholding the records requested by Plaintiff;
2. Order Defendant to expeditiously produce the records requested by the Plaintiff;
3. Award Plaintiff reasonable attorneys fees and other litigation costs reasonably incurred pursuant to the provisions of 5 U.S.C. §552(4)(E); and
4. Award any other relief this Court deems just.

VIOLATION OF 5 U.S.C. §552(3)(A)

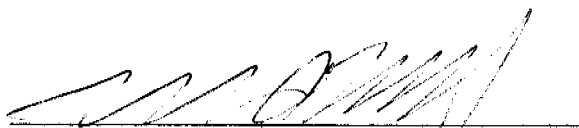
14. Plaintiff repeats and avers the allegations contained in Paragraphs 1 through 13 of the Complaint.
15. 5 U.S.C. §552(3)(A) as amended states: "... each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person."
16. As stated above, Defendant has failed, since August 8, 2002, to make available any of the records requested by Plaintiff and/or to respond to Plaintiff's repeated requests for said records.

17. Defendant has violated the provisions of 5 U.S.C. §552(3)(A) by failing to make available the records requested by the Plaintiff.

WHEREFORE, Plaintiff The Mashpee Wampanoag Tribal Council, Inc. demands judgment against Defendant Bureau of Indian Affairs of the Department of the Interior of the United States of America and requests this Honorable Court:

1. Enjoin the agency from withholding the records requested by Plaintiff;
2. Order Defendant to expeditiously produce the records requested by the Plaintiff;
3. Award Plaintiff reasonable attorneys fees and other litigation costs reasonably incurred pursuant to the provisions of 5 U.S.C. §552(4)(E); and
4. Award any other relief this Court deems just.

Respectfully Submitted,
The Mashpee Wampanoag Tribal Council, Inc.
By its attorney,



William A. McDermott, Jr.
Sullivan and McDermott
1988-1990 Centre Street
West Roxbury, MA 02132
(617) 323-0213
BBO #330820

Dated: February 11, 2003

FREEDOM OF INFORMATION REQUEST

August 8, 2002

VIA E-MAIL: DOIFIOIA@IOS.dot.gov

Alexandra Mallus
Department of the Interior
Department FOIA Officer (MS-5312MIB)
Office of Information Resources Management
1849 C Street, NW
Washington, DC 20240

**RE: Bureau of Indian Affairs -
Mashpee Wampanoag Tribal Recognition**

Dear Ms. Mallus:

This Request is being made pursuant to the Freedom of Information Act 5 U.S.C. §552, as amended.

This firm represents the Mashpee Wampanoag Indian Tribal Council, Inc. in Massachusetts. Presently, the Mashpee Tribe is involved in litigation with the Department of Interior, The Mashpee Wampanoag Tribal Council, Inc. v. Gale A. Norton, et al, USDC District of Columbia No. 02-5139; USCA District of Columbia Circuit No. 025139.

This firm is not involved in the litigation. We are seeking certain public records for non-litigation purposes. We believe that the within-requested records are not protected on account of the litigation.

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Definition - correspondence. "Correspondence" means written material sent by mail, facsimile or e-mail and also including any notes, memoranda, or telephone message slips kept concerning the requested correspondence.

1. Any and all correspondence to or from the Department of the Interior or the Bureau of Indian Affairs to the Town of Mashpee, Massachusetts, its elected officials or any governmental representative of the Town of Mashpee, Massachusetts, concerning federal recognition of the Mashpee Wampanoag Indian Tribe commencing October 3, 1979 through August

8, 2002, including but not limited to correspondence from Leo Krulitz and Scott Keep of the Division of Indian Affairs and George A. Benway, Jr.

2. Any and all correspondence, memoranda to and from, records and notes of meetings held between George A. Benway, Jr. and Scott Keep commencing January 1, 1977 through December 31, 1990, regarding Mashpee Wampanoag Tribal recognition with Scott Keep of the Division of Indian Affairs.

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12. Any and all correspondence, notes, and/or telephone messages from Attorney Urwitz of Hale & Dorr during the time period commencing March 25, 2002 through April 15, 2002, concerning Mashpee Wampanoag Tribal recognition.

Please provide the above documents to this office as well as the estimated costs. The e-mail address is Sullivan.McDermott@worldnet.att.net.

Thank you for your attention to this matter.

Very truly yours,

William A. McDermott, Jr., Esquire
Sullivan & McDermott
1990 Centre Street
West Roxbury, Massachusetts 02132
Telephone: 617-323-0213
Facsimile: 617-323-3384
E-Mail: Sullivan.McDermott@worldnet.att.net

SULLIVAN AND McDERMOTT
ATTORNEYS AT LAW
1988-1990 CENTRE STREET
WEST ROXBURY, MASSACHUSETTS 02132

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FACSIMILE (617) 323-3384
E-MAIL: sullivan.mcdermott@worldnet.att.net

JEREMIAH P. SULLIVAN, JR.*
DIRECT LINE (617) 323-2108

ANN MARIE JOHNNENE
DIRECT LINE (617) 323-3150

* (ALSO NEW HAMPSHIRE)

WILLIAM A. McDERMOTT, JR.
DIRECT LINE (617) 323-1124

September 5, 2002

VIA FACSIMILE: 202-501-2360

Alexandra Mallus
MS-5312, MIB
1849 C Street, NW
Washington, DC 20240

**RE: Request of August 8, 2002
Bureau of Indian Affairs
Mashpee Wampanoag Tribal Recognition**

Dear Ms. Mallus:

Attached please find the document sent on August 8, 2002.
Please acknowledge you have received same and inform me when we
should expect receiving responses.

Thank you.

Very truly yours,

William A. McDermott, Jr.

/md

Enclosure

FREEDOM OF INFORMATION REQUEST

August 8, 2002

VIA E-MAIL: DOIF0IA@IOS.dot.gov

Alexandra Mallus
Department of the Interior
Department FOIA Officer (MS-5312MIB)
Office of Information Resources Management
1849 C Street, NW
Washington, DC 20240

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12. Any and all correspondence, notes, and/or telephone messages from Attorney Urwitz of Hale & Dorr during the time period commencing March 25, 2002 through April 15, 2002, concerning Mashpee Wampanoag Tribal recognition.

Please provide the above documents to this office as well as the estimated costs. The e-mail address is Sullivan.McDermott@worldnet.att.net.

Thank you for your attention to this matter.

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ANN MARIE JOHNNENE
DIRECT LINE (617) 323-3150

* (ALSO NEW HAMPSHIRE)

December 9, 2002

Lee Fleming, Chief
Branch of Acknowledgment and Research
Bureau of Indian Affairs
MS-4660MID
1849 C Street, N.W.
Washington, D.C. 20240

RE: Mashpee Wampanoag Tribal Recognition

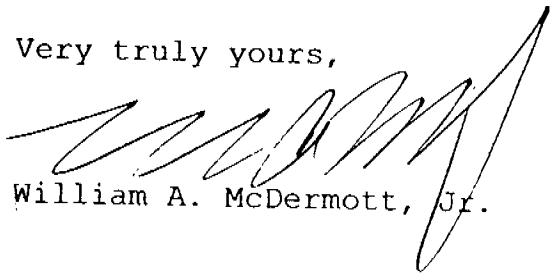
Dear Mr. Fleming:

Please be advised that I was unable to reach you via e-mail. Therefore, I am enclosing herewith the following:

1. My e-mail letter to you dated December 5, 2002;
2. The error message indicating the e-mail was undeliverable;
3. The letter attached dated August 8, 2002; and
4. The follow-up letter attached dated September 5, 2002.

Thank you for your prompt attention to this matter.

Very truly yours,


William A. McDermott, Jr.

/md

Enclosures

Sullivan McDermott

From: "Sullivan McDermott" <sullivan.mcdermott@worldnet.att.net>
To: <LeeFleming@bia.gov>
Sent: Thursday, December 05, 2002 8:10 AM
Attach: doi foia.doc; mallus letter.doc
Subject: Mashpee Wampanoag Tribal Council, Inc.

December 5, 2002

Lee Fleming, Chief
Branch of Acknowledgment and Research
Bureau of Indian Affairs
MS-4660MID
1849 C Street, N.W.
Washington, D.C. 20240

RE: Mashpee Wampanoag Tribal Recognition

Dear Mr. Fleming:

I am referencing previous FOIA requests made to the Bureau of Indian Affairs, the first of which was made on August 8th, 2002. I am providing you with a copy of that initial request. A second request was made by facsimile on September 5th, 2002 to Alexandra Mallus. Subsequently, you left a message for me that the Mashpee Wampanoag Tribal Council, Inc. would have to designate this firm as an attorney representing its interests in Massachusetts. On November 11th, 2002, such letter was sent to your attention from Glenn Marshall, President.

The purpose of this letter is to follow-up on the requests and provide for receipt of the documents requested. Please contact me.

Very truly yours,

William A. McDermott, Jr.
Sullivan & McDermott
1990 Centre Street
West Roxbury, MA 02132
617-323-1124 (direct line)
617-323-0213 (office)
617-323-3384 (fax)

Enclosures

12/5/2002

Sullivan & McDermott

From: "Mail Administrator"
To: <sullivan.mcdermott@worldnet.att.net>
Sent: Friday, December 06, 2002 10:31 PM
Attach: ATT00132.dat; ATT00133.eml
Subject: Mail System Error - Returned Mail

This Message was undeliverable due to the following reason:

Your message was not delivered because the destination computer was not reachable within the allowed queue period. The amount of time a message is queued before it is returned depends on local configuration parameters.

Most likely there is a network problem that prevented delivery, but it is also possible that the computer is turned off, or does not have a mail system running right now.

Your message was not delivered within 1 days.
Host bia.gov is not responding.

The following recipients did not receive this message:

<LeeFleming@bia.gov>

Please reply to Postmaster@worldnet.att.net
If you feel this message to be in error.

FREEDOM OF INFORMATION REQUEST

August 8, 2002

VIA E-MAIL: DOIFIOIA@IOS.dot.gov

Alexandra Mallus
Department of the Interior
Department FOIA Officer (MS-5312MIB)
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* (ALSO NEW HAMPSHIRE)

September 5, 2002

VIA FACSIMILE: 202-501-2360

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This firm represents the Mashpee Wampanoag Indian Tribal Council, Inc. in Massachusetts. Presently, the Mashpee Tribe is involved in litigation with the Department of Interior, The Mashpee Wampanoag Tribal Council, Inc. v. Gale A. Norton, et al, USDC District of Columbia No. 02-5139; USCA District of Columbia Circuit No. 025139.

This firm is not involved in the litigation. We are seeking certain public records for non-litigation purposes. We believe that the within-requested records are not protected on account of the litigation.

We therefore request the following records:

Definition - correspondence. "Correspondence" means written material sent by mail, facsimile or e-mail and also including any notes, memoranda, or telephone message slips kept concerning the requested correspondence.

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8, 2002, including but not limited to correspondence from Leo Krulitz and Scott Keep of the Division of Indian Affairs and George A. Benway, Jr.

2. Any and all correspondence, memoranda to and from, records and notes of meetings held between George A. Benway, Jr. and Scott Keep commencing January 1, 1977 through December 31, 1990, regarding Mashpee Wampanoag Tribal recognition with Scott Keep of the Division of Indian Affairs.

3. Any and all correspondence, as defined above, between the Division of Indian Affairs including but not limited to correspondence originated by or correspondence received by Hans Walker, Jr., Acting Associate Solicitor, Division of Indian Affairs, commencing January 1, 1977 through December 31, 1990. This request would include his successors as Acting Associate Solicitor to or from George A. Benway, Jr. of Mashpee, Massachusetts. This request also includes any and all other Acting Associate Solicitors for the Division of Indian Affairs during the requested time. Any and all correspondence requested would be addressed to or from the members of the Board of Selectmen of the Town of Mashpee, any of its political subdivisions, and officials of the Town of Mashpee.

4. Any and all correspondence from or to the Town of Mashpee, its elected officials or any governmental representative of the Town of Mashpee, Massachusetts, concerning federal recognition of the Mashpee Wampanoag Indian Tribe, such correspondence commencing January 1, 1998 through August 8, 2002.

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11. Any and all records in connection with the preparation for and the attendance at a meeting held in Washington, D.C. on or about April 10 through April 15, 2002 with members of the Board of Selectmen of the Town of Mashpee, Kenneth Marsters, and David Leveille concerning meetings with the Town of Mashpee's attorneys, Hale & Dorr, and said meetings which may have included Deputy Solicitor General Kneedler and Justice officials regarding the Mashpee Wampanoag Tribal recognition issue at which Bureau of Indian Affairs personnel were in attendance.

12. Any and all correspondence, notes, and/or telephone messages from Attorney Urwitz of Hale & Dorr during the time period commencing March 25, 2002 through April 15, 2002, concerning Mashpee Wampanoag Tribal recognition.

Please provide the above documents to this office as well as the estimated costs. The e-mail address is Sullivan.McDermott@worldnet.att.net.

Thank you for your attention to this matter.

Very truly yours,

William A. McDermott, Jr., Esquire
Sullivan & McDermott
1990 Centre Street
West Roxbury, Massachusetts 02132
Telephone: 617-323-0213
Facsimile: 617-323-3384
E-Mail: Sullivan.McDermott@worldnet.att.net

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Lee Fleming, Chief
Bureau Indian Affairs
MS-4660 MID
1849 C Street NW
WASHINGTON DC 20240

2. Article Number

(Transfer from service label)

7002 2030 0002 2534 2543

COMPLETE THIS SECTION ON DELIVERY

A. Signature

James Clifford

☐ Agent

☐ Addressee

B. Received by (Printed Name)

2/03/03

C. Date of Delivery

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes

☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

PS Form 3811, August 2001

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CERTIFIED MAIL™ RECEIPT

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Lee Fleming, Chief BIA MS466 MID

Street, Apt. No.,
or PO Box No.

1849 C St NW

City, State, ZIP+4

WASHINGTON DC 20240

PS Form 3800, June 2002

See Reverse for Instructions

7002 2030 0002 2534 2543

SULLIVAN AND McDERMOTT
ATTORNEYS AT LAW
1990 CENTRE STREET
WEST ROXBURY, MA 02132

telephone: (617) 323-0213
facsimile: (617) 323-3384
email: sullivan.mcdermott@worldnet.att.net

JEREMIAH P. SULLIVAN, JR.*
DIRECT LINE: (617) 323-2108

WILLIAM A. McDERMOTT, JR.
DIRECT LINE: (617) 323-1124

ANN MARIE JOHNNENE
DIRECT LINE: (617) 323-3150

*(ALSO NEW HAMPSHIRE)

FACSIMILE COVER SHEET

TO: Lee Fleming
FAX NO: 202-219-13008
FROM: William A. McDermott, Jr.
DATE: 1/27/03
RE: Mashpee Wampanoag
Tribal Recognition

THERE ARE 9 PAGES, INCLUDING THIS COVER PAGE BEING SENT. IF YOU
DO NOT RECEIVE ALL OF THE PAGES, PLEASE CONTACT:

Mary

CONFIDENTIALITY NOTICE

The documents and information submitted with this Facsimile transmission contain confidential and privileged information from Sullivan and McDermott. The addressee reserves its confidentiality and privilege. If you are not the intended recipient, please be advised that any disclosure, copying, distribution or use of the contents of this Facsimile transmission is prohibited. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY US BY TELEPHONE (COLLECT) IMMEDIATELY TO PERMIT US TO ARRANGE FOR THE RETRIEVAL OF THE ORIGINAL DOCUMENTS AND COPIES AT NO COST TO YOU.

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ANN MARIE JOHNNENE
DIRECT LINE (617) 323-3150

*(ALSO NEW HAMPSHIRE)

January 27, 2003

VIA E-MAIL: LeeFleming@bia.gov
VIA FACSIMILE: 1-202-219-3008
VIA FIRST CLASS MAIL
VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Lee Fleming, Chief
Branch of Acknowledgment and Research
Bureau of Indian Affairs
MS-4660MID
1849 C Street, N.W.
Washington, D.C. 20240

RE: Mashpee Wampanoag Tribal Recognition

Dear Mr. Fleming:

Please comply with my Freedom of Information Request sent to you on December 9, 2002. This Request was originally sent to the Bureau of Indian Affairs on August 8, 2002 and September 5, 2002, copies enclosed.

Thank you for your prompt attention to this matter.

Very truly yours,


William A. McDermott, Jr.

/md

Enclosures

4552 4552 2000 0802 2002

FREEDOM OF INFORMATION REQUEST

August 8, 2002

VIA E-MAIL: DOIF0IA@IOS.dot.gov

Alexandra Mallus
Department of the Interior
Department FOIA Officer (MS-5312MIB)
Office of Information Resources Management
1849 C Street, NW
Washington, DC 20240

**RE: Bureau of Indian Affairs -
Mashpee Wampanoag Tribal Recognition**

Dear Ms. Mallus:

This Request is being made pursuant to the Freedom of Information Act 5 U.S.C. §552, as amended.

This firm represents the Mashpee Wampanoag Indian Tribal Council, Inc. in Massachusetts. Presently, the Mashpee Tribe is involved in litigation with the Department of Interior, The Mashpee Wampanoag Tribal Council, Inc. v. Gale A. Norton, et al, USDC District of Columbia No. 02-5139; USCA District of Columbia Circuit No. 025139.

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Thank you for your attention to this matter.

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DIRECT LINE (617) 323-1124

ANN MARIE JOHNNENE
DIRECT LINE (617) 323-3150

* (ALSO NEW HAMPSHIRE)

September 5, 2002

VIA FACSIMILE: 202-501-2360

Alexandra Mallus
MS-5312, MIB
1849 C Street, NW
Washington, DC 20240

RE: Request of August 8, 2002
Bureau of Indian Affairs
Mashpee Wampanoag Tribal Recognition

Dear Ms. Mallus:

Attached please find the document sent on August 8, 2002.
Please acknowledge you have received same and inform me when we
should expect receiving responses.

Thank you.

Very truly yours,

William A. McDermott, Jr.

/md

Enclosure

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

The Mashpee Wampanoag Tribal Council,
Inc.

(b) County of Residence of First Listed Plaintiff Barnstable
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS Bureau of Indian Affairs
of the Department of the Interior

County of Residence of First Listed MASSACHUSETTS
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

William A. McDermott, Jr.
Sullivan and McDermott, 1990 Centre St.,
West Roxbury, MA 02132 (617) 323-0213

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury — Med. Malpractice <input type="checkbox"/> 365 Personal Injury — Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Federal Decision Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Defendant US Government has violated
5 USC 552 by failing to provide public records requested by Plaintiff.

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY (See instructions):

None

JUDGE
E

DOCKET NUMBER

DATE: February 11, 2003
SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) The Mashpee Wampanoag Tribal Council, Inc. v. Bureau of Indian Affairs of the Department of Interior

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

- I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- X II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. **Also complete AO 120 or AO 121 for patent, trademark or copyright cases*
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.

None

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?

YES

NO

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)

YES

NO

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES

NO

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?

YES

NO

7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).

YES

NO

A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?

EASTERN DIVISION

CENTRAL DIVISION

WESTERN DIVISION

B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION

CENTRAL DIVISION

WESTERN DIVISION

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME William A. McDermott, Jr.

ADDRESS Sullivan and McDermott, 1990 Centre Street, West Roxbury, MA 02132

TELEPHONE NO. (617) 323-0213